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Paper No. 15

MAY 13 2004

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OFFICE OF PETITIONS

ON PETITION APR 28 2008

TC 1700

In re Application of
Shulong Li, et al.
Application No. 09/501,467
Filed: February 9, 2000
Attorney Docket No. 2129

This is a decision on the petition under 37 CFR 1.137(b), filed November 24, 2003, to revive the above-identified application.

The petition is **GRANTED**.

A final Office action was mailed to applicant on April 22, 2003, setting a three-month shortened statutory period within which to submit a reply. In the instant petition, applicant argues that an amendment was, in fact, timely filed on June 3, 2003. Applicant provided a copy of the post card receipt establishing receipt of the amendment dated June 3, 2003. While the amendment was submitted to the Office timely, it was reviewed by the examiner and determined that it did not place the application in condition for allowance. A copy of the Advisory Action by the examiner is enclosed herewith.

In view of the above, the application was properly held abandoned and petitioner is not entitled to a refund of the petition fee.

Nevertheless, petitioner has filed a Request for Continued Examination (RCE) and submission required by 37 CFR 1.114, with the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 1700 for processing the RCE.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Advisory Action

Advisory Action

Application No.

09/501,467

Applicant(s)

LI ET AL.

Examiner

Ms. Arti Singh

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11/24/03 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-39.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

 4/21/04

Ms. Arti Singh
Primary Examiner
Art Unit: 1771

Continuation of 5. does NOT place the application in condition for allowance because: firstly, they rely on unentered amendments, and secondly, the amended limitation that Applicant now desires, which now puts a lower limit on the amount of coating sheds a different light on the article and thus raise issues that require further search and consideration. Additionally, Applicant is made aware that optimizing the coating weight would be well within the purview of one of ordinary skill in the art, and that discovering an optimum value of a result effective variable involves only routine skill in the art, as the range used by cited patent in the rejection, and to what Applicant is now claiming varies only minimally.